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FISCAL IMPACT STATEMENT

LS 6529

BILL NUMBER: HB 1835

NOTE PREPARED: Feb 24, 2007

BILL AMENDED: Feb 22, 2007

SUBJECT: Race Tracks.

FIRST AUTHOR: Rep. Van Haaften

FIRST SPONSOR: Sen. Jackman

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) *Racetrack Slot Machines:* The bill authorizes slot machines at racetracks and imposes an initial license fee of \$100,000,000. It limits a permit holder who offers slot machines to the number of satellite facility licenses issued to the permit holder before January 1, 2007. The bill requires a racetrack to annually devote at least 15% of the adjusted gross receipts from slot machine wagering at the racetrack to horse racing purses. The bill imposes a Wagering Tax of 37.5% on the licensee's adjusted gross receipts. The bill reduces the supplemental distribution paid to the Horse Racing Commission in state fiscal years ending before July 1, 2009, and eliminates the supplemental distribution after June 30, 2009. The bill provides for revenue sharing to counties not containing a riverboat. The bill prohibits local development agreements between the permit holders who operate slot machine facilities and political subdivisions.

French Lick Casino Wagering Tax Credit: The bill provides that the operating agent of the French Lick Casino is entitled to a daily credit against the Riverboat Wagering Tax equal to the Admissions Tax remitted by the operating agent for that day.

Other Provisions: The bill requires 160 live racing days each year and provides that the Horse Racing Commission may not issue more than two recognized meeting permits. The bill allows a slot machine facility to be licensed under the alcoholic beverage laws under the same conditions as a riverboat. The bill provides requirements for contracting with minority and women's business enterprises. The bill authorizes the possession of an antique slot machine that is used for decorative, historic, or nostalgic purposes.

Effective Date: Upon Passage; July 1, 2007.

Summary of Net State Impact: (Revised) The potential net impact on the state General Fund, the Property Tax Replacement Fund (PTRF), the Local Revenue Sharing Fund (established in the bill) the Indiana Health Insurance Fund (established in the bill) is summarized in the table below.

State Fund/Revenue Source	FY 2009	FY 2010
General Fund		
Slot Machine Wagering Tax	\$36.1 M - \$64.2 M	\$50.6 M - \$73.1 M
Local Revenue Sharing Fund		
Slot Machine Wagering Tax	0	29.5 M - 42.7 M
Property Tax Replacement Fund		
Riverboat Admission Tax Supplemental Funding *	9.6 M	9.6 M
Indiana Health Insurance Fund		
Riverboat Admission Tax Collections **	17.6 M	17.6 M
Total	\$63.3 M - \$91.4 M	\$107.3 M - \$143.0 M
*Amounts annually transferred from the PTRF to the Indiana Horse Racing Commission (IHRC) for horse racing purposes to replace Riverboat Admission Tax shortages. **Riverboat Admission Tax collections currently distributed to the IHRC for various horse racing purposes.		

There are several caveats relating to the totals reported in the table above:

(1) The totals in the table do not reflect the potential reduction in Riverboat Wagering Tax revenue to the PTRF due to the Wagering Tax credit provided in the bill for the French Lick Casino. The revenue loss due to the tax credit is indeterminable at this time.

(2) The totals in the table do not reflect the payment of the one-time initial licensing fee required from racetrack owners operating slot machines. The initial licensing fee is equal to \$100 M for each horse race track owner that operates slot machines. The fee must be paid before September 1, 2007, with the revenue from the fee distributed to the state General Fund in FY 2008.

(3) The totals in the table are not adjusted to account for the potential displacement of Riverboat Admission Tax and Wagering Tax revenue by slot machine wagering at Hoosier Park and Indiana Downs. These potential competitive impacts on the fiscal outcomes are indeterminable, but could be significant.

Explanation of State Expenditures: (Revised) *Indiana Gaming Commission (IGC):* The bill requires the IGC to regulate and administer slot machine operations at Hoosier Park and Indiana Downs, including investigation and licensing of owners of the slot machine facilities and suppliers of slot machines. The IGC would incur additional administrative expenses as a result of these new responsibilities. However, the bill does not fund these costs. While the bill provides that licensees pay annual license fees and pay the cost of any investigation by the IGC relating to the licensee, the bill requires this money to be deposited in the state General Fund.

The bill requires the IGC to place gaming agents at the horse race track slot machine facilities, and authorizes the IGC to employ gaming agents for this purpose. The bill also requires the owners of the horse race tracks

to reimburse the IGC for the cost of training the gaming agents, the salaries and other expenses of staff supporting the gaming agents, and the salaries and other expenses of the gaming agents.

The bill also establishes minority and women's business purchasing goals for pari-mutuel permit holders who operate slot machines. It places responsibility for enforcement of these requirements under the IGC. Currently, the IGC administers similar requirements for riverboats.

Indiana Health Insurance Fund: The bill establishes the Indiana Health Insurance Fund consisting of revenue from the Riverboat Admission Tax that is otherwise distributed to the Indiana Horse Racing Commission for horse racing industry purposes. The amount distributed annually to the Fund could total about \$17.6 M annually beginning in FY 2009. The Fund is nonreverting. The bill requires the money in the Fund to be used to provide health insurance to Indiana residents who reside in a household with an annual household income of less than 300% of the federal poverty level.

Local Revenue Sharing Fund: The bill establishes the Local Revenue Sharing Fund consisting of a 35% share of the revenue from the Slot Machine Wagering Tax. The annual distribution to the Fund would begin in FY 2010 and could potentially range from about \$29.5 M to \$42.7 M. The Fund is nonreverting. The bill requires the money in the Fund to be distributed on a per capita basis to counties not containing a riverboat casino, and the cities and towns within these counties. The money may be used for the same purposes as revenue sharing money from the Riverboat Wagering Tax.

Penalties: The bill establishes a Class D felony for various types of violations at slot machine facilities. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) *Racetrack Slot Machine Tax and Fee Provisions:* The bill authorizes the operation of slot machines at Hoosier Park and Indiana Downs. The bill limits the number of slot machines at each horse race track to 2,500. (Note: The bill allows additional slot machines to be operated only with the approval of the IGC.) The bill imposes an initial licensing fee and a Slot Machine Wagering Tax.

Initial Slot Machine Licensing Fee: The initial licensing fee is equal to \$100 M for each horse race track to operate slot machines. The fee must be paid before September 1, 2007, with the revenue from the fee distributed to the state General Fund in FY 2008.

Slot Machine Wagering Tax: The bill imposes a state Slot Machine Wagering Tax on annual adjusted gross receipts (total wagers minus winnings paid out) generated by slot machines at Hoosier Park and Indiana Downs. The Wagering Tax is equal to 37.5% of the annual AGR generated by slot machines at each racetrack. It is estimated that the tax could potentially generate about \$63.3 M to \$91.4 M in FY 2009 and about \$84.3 M to \$121.9 M annually thereafter. (Note: It is estimated that annual AGR from slot machines at Hoosier Park and Indiana Downs could potentially range from approximately \$225.0 M to \$325.0 M. The potential annual growth in this revenue is indeterminable.) Revenue from the tax is distributed to the State Racetrack Gaming Fund created by the bill. Assuming a 12-15 month start-up period, it is estimated that no

revenue from this tax will be generated in FY 2008; with about 9-12 months of revenue potentially being generated in FY 2009. Under the bill, once the IGC approves a slot machine licensee's plans for a permanent facility, it must allow the licensee to operate slot machines in a temporary facility for up to 24 months. As a result, the start-up period could be reduced to the extent that operations in a temporary facility are established. The distribution of revenue from the Slot Machine Wagering Tax is summarized in the table below.

Purpose	FY 2009	FY 2010
Riverboat Admission Tax Replacement	\$27.2 M	\$0
State General Fund	36.1 M - 64.2 M	50.6 M - 73.1 M
Local Revenue Sharing Fund	Begins in FY 2010	29.5 M - 42.7 M
Madison/Shelby County Distributions	Begins FY 2010	4.2 M - 6.1 M
Total	\$63.3 M - \$91.4 M	\$84.3 M - \$121.9 M

Until the end of FY 2009, the first \$27.2 M annually from the Slot Machine Wagering Tax is distributed to the Indiana Horse Racing Commission (IHRC) for horse racing purposes, with the remainder distributed to the state General Fund. Beginning in FY 2010, no distribution is to be made to the IHRC, with 35% of the revenue to be distributed to the Local Revenue Sharing Fund, 5% to be distributed to Madison County and Shelby County, and 60% to be distributed to the state General Fund.

Existing Riverboat Admission Tax to Horse Racing: Until the end of FY 2009, the bill distributes \$27.2 M from the state Slot Machine Wagering Tax to replace (1) Riverboat Admission Tax collections and (2) the annual supplemental payment from PTRF for replacement of Admission Tax shortages currently funding horse racing programs. Beginning in FY 2010, the Slot Machine Wagering Tax is no longer utilized to replace the Riverboat subsidy to horse racing. The bill redirects actual Riverboat Admission Tax collections otherwise earmarked for the horse racing subsidy to the state General Fund, and discontinues the supplemental Admission Tax payments from the PTRF. Under current statute, \$0.65 per \$3.00 Admission Tax paid is distributed to the IHRC for purses, horsemen's associations, breed development, and the race track subsidy. This annual distribution is guaranteed at \$27.2 M, with the supplemental payment from PTRF making up the difference between the guarantee amount and actual Admission Tax collections. The supplemental payment is made in the fiscal year following the fiscal year of the shortage. In FY 2006 approximately \$17.6 M in Admission Tax collections was distributed to the IHRC. Thus, the supplemental payment from PTRF for the FY 2006 shortage totaled approximately \$9.6 M.

Existing Parimutuel Revenue: Existing Pari-Mutuel Admission Tax: Revenue from the existing \$0.20 Pari-mutuel Admissions Tax could potentially increase if slot machine operations serve to increase paid attendance. Currently, admission is charged at Hoosier Park. Under current statute, 50% of the tax is distributed to the state General Fund. The potential impact is indeterminable.

License Fees: The bill provides for a slot machine operator license and a slot machine supplier's license. The initial slot machine operator's license would be effective for 10 years, with annual renewal thereafter (see discussion of the initial licensing fee above). The annual renewal fee would be \$5,000. The annual fee for a supplier's license would be \$5,000. The bill requires a person to obtain a supplier's license to furnish slot machines to the horse race tracks. The bill also requires licensees to reimburse the IGC for the cost of any

investigation of the licensee. The bill distributes the license fee revenue and investigation cost reimbursement money to the state General Fund.

Fiscal Impact Details: The fiscal impact is based on a range of estimates of potential patrons at slot machine facilities located at Hoosier Park and Indiana Downs. The patron estimates are based on adult population totals from counties not exceeding 120 miles from the two locations. Counties in this group that are closer to casinos in Indiana, Illinois, or Michigan are excluded. Participation and annual visitation rates of casino patrons are based on recent industry survey information. The estimate also assumes that the AGR per patron visit is between \$76 and \$77. It is important to note that the fiscal estimates are not adjusted to account for the potential displacement of Riverboat Admission Tax and Wagering Tax revenue by slot machine wagering at Hoosier Park and Indiana Downs. These potential competitive impacts on the fiscal outcomes are indeterminable, but could be significant.

Other Provisions Relating to Racetrack Slot Machines: The bill also provides for the following:

- (1) The bill requires the initial licensee for slot machine operations at a horse race track to hold that license for at least 10 years.
- (2) The bill imposes a fee on the transfer of a controlling interest in a license to operate slot machines at one of the horse race tracks. The fee is the greater of zero or 50% of the difference between the selling price of the controlling interest and \$100 M.
- (3) The bill requires a horse race track operating slot machines to devote to horse racing purses an amount equal to at least 15% of the AGR generated at the race track by slot machines. The bill authorizes the IGC to impose a civil penalty of up to \$1 M against the owner of a racetrack if it finds that the owner has not complied with this purse funding requirement.
- (4) The bill prohibits the IHRC from issuing more than two racing meeting permits annually.
- (5) The bill prohibits political subdivisions from imposing a tax or fee (other than real and personal property taxes) on the owner of a horse race track. The bill also prohibits a political subdivision from entering into a financial incentive agreement with the owner of a horse race track.

Penalties Relating to Racetrack Slot Machines: The bill makes it a Class A misdemeanor for a person to knowingly or intentionally aid, induce, or cause a person less than 21 years of age and who is not an employee of a slot machine facility to enter or attempt to enter the facility. It also makes it a Class A misdemeanor for a person who is less than 21 years of age and who is not an employee of a slot machine facility to knowingly or intentionally enter or attempt to enter the facility. The bill also establishes a Class D felony for various types of cheating at slot facilities.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration

fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

French Lick Casino Wagering Tax Credit: The bill provides a credit against the Riverboat Wagering Tax paid by the operating agent of the French Lick Casino equal to 100% of the Riverboat Admission Tax paid by the operating agent. The credit is effective from FY 2008 to FY 2012 and would reduce Wagering Tax collections from the French Lick Casino that are distributed to the state and to local units in and around Orange County. The revenue loss would affect the Property Tax Replacement Fund (PTRF) as follows:

(1) Directly because the PTRF receives 37.5% of the Wagering Tax revenue collected from the French Lick Casino. The revenue loss under this distribution due to the tax credit is indeterminable at this time. However, for each \$1 M reduction in annual Wagering Tax revenue due to the tax credit, the reduction in revenue to the PTRF would total \$375,000.

(2) Indirectly because the PTRF receives the Wagering Tax revenue otherwise distributed to the West Baden Springs Historic Hotel Preservation and Maintenance Fund once the balance in that Fund reaches \$20 M. As of February 22, 2007, the balance in the Preservation and Maintenance Fund was \$2.6 M. The Preservation and Maintenance Fund receives 37.5% of the Wagering Tax and 25% of the Admission Tax collected from the French Lick Casino. (Note: The Preservation and Maintenance Fund also received the \$1 M initial fee paid by the operating agent of the French Lick Casino.) The reduction in revenue would delay the time at which the balance in the Preservation and Maintenance Fund would reach \$20 M and the Wagering Tax distribution to the Fund would be diverted to the PTRF. The particular fiscal year(s) affected and the monetary impact of this delay is unknown.

The current distribution of Riverboat Wagering Tax collected from the French Lick Casino is described in the table below.

Recipient	Wagering Tax Distribution
Orange County	6%
Dubois County	2%
Crawford County	2%
French Lick	5%
West Baden Springs	5%
Historic Hotel Preservation Commission	5%
West Baden Historic Hotel Preservation and Maintenance Fund	37.5%
Property Tax Replacement Fund	37.5%

Explanation of Local Expenditures: *Penalties Relating to Racetrack Slot Machines:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) *Racetrack Slot Machines:* **Local Wagering Tax Distribution:** Beginning in FY 2010, the bill requires 5% of the revenue from the Slot Machine Wagering Tax collected at Hoosier Park to be distributed to Madison County, and 5% of the revenue from the Slot Machine Wagering Tax collected at Indiana Downs to be distributed to Shelby County. Within in each county the revenue is to be distributed on a per capita basis to the county, and cities and towns within the county. In state FY 2010, the distribution could potentially total \$2.5 M to \$3.7 M for Madison County and \$1.7 M to \$2.4 M for Shelby County.

Local Revenue Sharing: Beginning in FY 2010, the bill requires 35% of the revenue from the Slot Machine Wagering Tax to be distributed to the Local Revenue Sharing Fund. In state FY 2010, the distribution could total \$29.5 M to \$42.7 M. The bill requires the money in the Fund to be distributed on a per capita basis to counties not containing a riverboat casino, and the cities and towns within these counties. The money may be used for the same purposes as revenue sharing money from the Riverboat Wagering Tax.

Penalties Relating to Racetrack Slot Machines: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

French Lick Casino Tax Credit: The bill provides a credit against the Riverboat Wagering Tax paid by the operating agent of the French Lick Casino equal to 100% of the Riverboat Admission Tax paid by the operating agent. The credit is effective from FY 2008 to FY 2012. The credit would reduce the amount of Wagering Tax collections from the French Lick Casino that would otherwise be distributed to local units in and around Orange County. The potential revenue loss is indeterminable at this time.

See *Explanation of State Revenues* for Table of Current Distributions.

State Agencies Affected: Indiana Gaming Commission; Indiana Horse Racing Commission; Department of State Revenue; Department of Correction; Department of Agriculture; Indiana Economic Development Corporation.

Local Agencies Affected: Local units in Shelby County and Madison County; Local units in non-riverboat counties; Trial courts, local law enforcement agencies; Orange County, Crawford County, Dubois County, French Lick, and West Baden Springs; All local units.

Information Sources: Indiana Sheriffs' Association; Department of Correction; Indiana Gaming Commission, *FY 2006 Annual Report*; Harrah's Entertainment, Inc. *Harrah's Survey: Profile of the American Casino Gambler, 2002, 2003, 2004, & 2006.*

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